

# AML/TF detection, supervision and EU coordination



## Anneli Tuominen

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### A common authority for EU AML/CTF supervision is needed

Although the EU has requested several improvements for AML/CTF supervision and information exchange between authorities in recent years, a lot of gaps remain. For major improvements to take place, a centralised EU AML/CTF supervisory authority is needed, a body similar to the ECB.

The past few years have revealed serious flaws both in the AML and CTF framework and related supervision conducted by national authorities in the EU. Various bodies, the most important being the Financial Action Task Force and the European Commission, have analysed the reasons for failures.

In July this year, the European Commission published a report that analyses recently publicised money laundering scandals. It highlights problems that EU AML/CTF supervisors have been facing in recent years.

The main conclusion was that most supervisors have been understaffed. Additionally, it was reported that sanctions have not been issued, even in cases where clear breaches of AML/CTF legislation were found.

Moreover, in cases where the target institution was a banking group operating in several jurisdictions, home supervisors have had a tendency to trust the supervision of host Member States. There was also very little or no cooperation and information exchange between AML supervisors, prudential supervisors and financial intelligence units (FIU).

The authorities seemed to lack understanding as to how information exchange should be organised and what type of information is essential for other authorities. Different responsibilities and provisions on data protection also hampered cooperation.

These findings need to be taken seriously. What kind of corrective action is required in the EU, since global actions need a separate discussion?

So far, the European Union has concentrated on legislative changes improving cooperation and information exchange between different authorities. On the supervisory side, the EBA's role will be strengthened; a new coordinating committee for AML matters will be established and a new database consisting of information on breaches of AML regulations and ineffective application of AML policies will be set up.



>>> Even if the aforementioned measures were to be implemented, however, this will not be sufficient to restore the credibility of the EU AML/CTF supervisory regime. The proposed changes do not convert the EBA into a supervisory authority; its role will still be limited when it comes to actual inspections and sanctions.

Major improvements can only be achieved through one centralised supervisory AML/CTF authority in the European Union, a body similar to the ECB. This authority should be adequately staffed in order to be able to carry out its supervisory tasks independently with the assistance of national supervisors. Supervision should be risk-based, meaning that the central body should concentrate on the supervision of the most significant entities and the riskiest areas. National authorities should assist it in this task and additionally look after purely domestic issues.

Benefits of one central authority would include swiftness of decision-making, an equal level of supervision for the whole EU and a clear definition of responsibilities for supervision of multi-jurisdiction institutions. The central authority could also give guidelines for the supervisory regime, and through its sanctioning decisions it could set guidance for all financial institutions.

One area that needs to be taken into account is cooperation between supervisors and FIUs. As FIUs receive more and more information concerning apparent ML cases, they would be able to give supervisors a more precise picture of the ML situation. A European central authority could act as a focal point for FIU information and disseminate it to concerned national authorities. This would also apply to law enforcement authorities in cases where money laundering investigations could initiate supervisory actions. Finally, new information technology should be utilised to its full extent. There are currently several innovations in the development phase for a more effective KYC process and exchange of information. A centralised EU body could help the private sector to create more common definitions for suspicious customers and transactions. This would benefit all of us. ●



## Liga Kļaviņa

Deputy State Secretary on Financial Policy,  
Ministry of Finance of the Republic of Latvia

### Improving AML/TF detection, supervision and EU coordination

Over the two last years we have experienced that cases of money laundering and terrorist financing (ML/TF) have moved from the headlines of the press and media to the substantial discussions and even materialized in concrete actions taken by the EU member states, institutions and market players. Undoubtedly, those member states involved in the misuse of their banking and financial system were under pressure to deliver tangible and credible results in de-risking of the sector, strengthen its ability to fight ML/TF and achieve international standards of compliance.

Controlling and radically reducing ML/TF risks as well as combatting all forms of financial crime, are the number one priority of the Latvian Government. We have gone through extensive overhaul of the regulatory architecture reforming entire financial supervisory, regulatory and legal system thus addressing recently identified vulnerabilities and strengthening various lines of defence. These efforts are already yielding important results: Latvia has cut non-EU deposits from 35% to 8% since 2015. In March 2019, domestic and EU deposits constituted 92% of deposits in Latvia. Around 97% of companies >>>

>>> established in Latvia have already disclosed their beneficial owners and this information is publicly available. Latvia has greatly increased the declaration of beneficial owners and has eliminated over 17 000 shell companies since November 2017. Latvia has implemented the Fourth AML (Anti Money Laundering) directive and has fully transposed Fifth AML directive six month before the set transposition deadline.

Variety of ML/TF cases in terms of geographic location and complexity of underlying schemes reveal that national political ambition, ownership and resources might not turn to be sufficient to localize and counter illicit financial flows. Acknowledgement of the problem being supra national might lead to the respective conclusion of the need of an overarching solution and better coordination globally.

Detection of the ML/TF can be strengthened at the level of financial institutions, i.e. through the possible development of new IT systems and artificial intelligence. Important question is the potential of an institution or sector to develop them in joint phase with the financial technology and emerging financial innovations. Joint EU action could have been beneficial in terms of both - effectiveness and costs. While going forward, it is crucial that other countries, some of which have already set their plans in motion in the region, are equally committed to build deep level of trust, cooperation, and sharing of information and technology.

To avoid differences in the regulatory outcome of AML/TF rules and to reduce the risks of possible regulatory arbitrage and inconsistent supervisory outcomes within the single market need of a uniform and directly applicable regulation is emerging. Supervisory practices of AML/TF, in turn, require more than set of rules but institutional harmonisation and coordination of practices, expertise and capacity at the EU level.

Thus, gradual orientation towards the concept of a single EU institution for ML/TF supervision has to be considered. We need ambitious proposals for greater European and international cooperation, more effective, centralized and coordinated oversight as well as much deeper levels of cooperation when it come to the sharing of relevant information. Some analogies of a concept of the Single rule rulebook and Single Supervisory mechanism within the Banking Union can be made. The distinguishing features is the scope including all EU member states and the need to align the practices with the global standards.

With the rapidly changing financial world, traditional financial services being replaced by innovative solutions and future technological challenges, we have to change and find solutions so to keep the crucial values of integrity, stability and competitiveness of EU financial system and economy unchanged. Single EU institution when it comes to the supervision and coordination of AML/TF practices in the EU could serve this purpose. ●



## Matthew Elderfield

Chief Risk Officer, Head of Group Risk and Compliance, Nordea Bank Abp

### Combatting financial crime – a team effort

During the last years, Nordea has significantly strengthened the transaction monitoring capabilities through investment in technology, additional employees and more sophisticated assessment techniques. Nordea has invested more than 700 m EUR within risk and compliance and resilience

since 2015 and today more than 1500 employees working solely on combatting money laundering and other types of financial crime.

These investments have significantly strengthened the risk and compliance platform and provide vital support to our financial crime prevention efforts, making Nordea a safer and more trusted bank. This is an ongoing and very important task and to be even more efficient in combatting financial crime, we invest heavily in developing new tools. In the coming years, we expect especially new technology to help us be even better at detecting and analysing suspicious behaviour.

To improve efficiency and harmonisation in the fight against financial crime, the leading >>>

>>> Nordic banks have also initiated a joint Nordic KYC utility. The banks' top priority in collaborating has been to develop a common Nordic platform with standardised processes for handling KYC data and administration. The objective is to simplify the KYC processes for corporate customers while strengthening financial crime prevention in the Nordics.

However, banks cannot fight this battle alone. The next step is to improve the whole system for how we work together. This is a broader societal issue and we encourage exchange of information and closer collaboration between banks and authorities, to prevent financial crime. We must together ensure that the risk of criminal activities is minimized in the financial system.

The discussions should not be about the number of SARs (suspicious activity reports), inspections or sanctions.

*“Anti-money laundering is a broader societal issue and we encourage closer collaboration between banks and authorities.”*

- MATTHEW ELDERFIELD

Focus must be on preventing crime in true collaboration. I would suggest an approach with national or cross-border joint task groups focusing on specific themes, such as trafficking. The taskforce

would work together end-to-end, from the banks' KYC, transaction monitoring and SAR filing, to prosecution of suspected criminal activities. Tangible results would come quickly, while the methods are tested in an iterative approach to then be used in other areas.

I also support the creation of an EU-level agency, with the purpose of combating money laundering and financial crime. This is needed both on the supervisory side – harmonising practises, as well as coordinating and overseeing local supervisors work - and on the crime prevention side, where a European FIU should be e.g. collecting SARs, analysing and working on cross-border cases in collaboration with the local FIUs and private sector. ●



## Jesper Berg

Director General, Danish Financial Supervisory Authority (Finanstilsynet)

### What is the right medicine to strengthen the fight against ML and TF in the EU?

The fight against money-laundering and terrorist financing has come to the forefront of public awareness in recent years following several much publicized cases. The issue is high on the political agenda and recognized as one of the key threats to the integrity of the financial system.

An obvious question following the numerous cases involving violation of AML/CFT rules is how to improve the EUs efforts to combat ML and TF. Most agree on the need for strengthening the first line of defense in financial institutions, increasing supervisory resources and enhancing convergence of supervisory approaches across countries within the EU. However, how do we avoid creating overlapping responsibilities with the risk that no-one feels responsible? What would genuinely add value?

Technology holds the potential to help financial institutions in their efforts to combat ML and TF, moving from manual procedures to a larger degree of automated procedures – and taking advantage of the huge amount of electronic data available while at the same time making life for customers of financial institutions easier. This is a greenfield area, where authorities can add value, including by addressing the tricky data protection issues and helping financial institutions overcome governance issues inherent in co-operating in this area. Thus, EU authorities should contribute to work to build a digital exchange of information on customers and develop a com-mon data infrastructure that can make a difference in combatting ML and TF.

AML and CFT efforts are very granular and need to be close to where the crimes are committed. Although cross-border transactions often entail in-creased risk, the true borders are around the individual financial institutions – and any transaction to and from individual financial institutions are subject to AML and CFT controls. Therefore, we need to enhance

the capacity of every single institution to fight money laundering and terrorist financing.

Supervision of efforts to combat ML and TF take place within the context of the national legal regime and in close co-operation with other national authorities, mainly the FIU, the police, other relevant authorities (e.g. tax authorities) and the courts.

*“Technology holds the potential to help financial institutions in their efforts to combat ML and TF.”*

- JESPER BERG

This requires a strong understanding of domestic legal practices and government infrastructure (e.g. the domestic tax system, the domestic ID systems etc.) and daily co-operation with domestic law enforcement and other relevant domestic entities. A domestic AML and CFT supervisor is best placed to participate in this ecosystem.

This does not mean that there is no place for increased efforts at EU-level. National supervisors need to cooperate closer in order to coordinate their efforts and to be able pursue cross-border cases. We need to increase supervisory convergence by national supervisors, to enhance the legal framework and to increase resources of AML supervisors. Establishing AML supervisory colleges is one way forward.

In my view, this is the best way forward to strengthen the fight against ML and TF. ●



## José Manuel Campa Fernández

Chairperson, European Banking Authority (EBA)

### Progress towards addressing money laundering and terrorist financing risks in the EU

The recent spotlight on cases of money laundering (ML) in the EU has identified clearly to the public several underlying weaknesses in our framework. A number of these weaknesses were already known to authorities and the legislators have taken action. AMLD4 and AMLD5 are specifically designed to address such concerns including: continuing the journey to an effective risk based approach by AML/CFT supervisors; updating the legislation in light of new technology; and improving coordination and cooperation amongst all relevant authorities. The EBA has contributed with standards, guidelines and opinions. But some potential weaknesses remain and the journey is not over.

I would focus on two:

1. ML and terrorist financing (TF) do not respect borders. The minimum harmonisation nature of relevant Directives means that differing national implementations and interpretations are possible, and the ensuing patchwork

of national approaches creates an inherent, but not insurmountable, risk of gaps. As recent cases have shown such gaps can, and will, be exploited;

2. the need for robust practical implementation of the new legislation is more immediately pressing. This is key to ensuring that AML/CFT supervision across the EU converges around effective identification and mitigation of risks by financial institutions and supervisors and that proactive and effective supervisory information sharing and cooperation takes place.

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*"The need for robust practical implementation of the new legislation is more immediately pressing."*

- JOSÉ MANUEL CAMPA FERNÁNDEZ

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The EBA will take some actions, assisted by modest adjustments to our role in AML/CFT under the ESAs Review, to help overcome these challenges. We will continue as a matter of priority to support NCAs with their national implementation, with training, individual feedback and thematic peer reviews.

We can promote effective cooperation with the roll out of AML/CFT colleges and strengthening the link between AML/CFT and prudential supervision, nationally and across the EU. We can also help to address remaining information gaps by building a database of relevant information, risks and trends that we can proactively disseminate to those that need to know.

The EBA will deliver on the tasks it has been mandated, but many argue more will be needed. In an integrated single market, our effective defence against ML/TF activities is as strong as our weakest link. Effective control would require that the minimum harmonization nature of EU regulation is enhanced. It would also need to ensure that proper governance and coordination exists between the different national agencies involved in the effective implementation of AML/TF regulation. Further empowerment at the EU level could help in this process. Finally, the EU also needs to ensure that adequate coordination and collaboration with third countries exists to really achieve the important objectives of preventing money laundering and terrorist financing across the single market. ●

## Martin Merlin

Director, Bank and Insurance, DG Financial Stability, Financial Services and Capital Markets Union, European Commission

### The European AML/CFT regime of the future



The recent money laundering scandals in a number of European banks have exposed weaknesses in the current EU arrangements for the fight against money laundering and terrorist financing. There is increasing realisation that more efforts are needed to address current fragmentation of the EU AML/CFT regime, which results in different compliance and supervisory enforcement and inadequate cross-border collaboration.

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*"There is scope to improve AML prevention and detection, and technology will play a key role."*

- MARTIN MERLIN

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The discussion on how to reinforce the current EU AML/CFT regime should focus on the following priorities:

- addressing regulatory and supervisory fragmentation;
- capturing new business models and emerging risks;

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- being sufficiently adaptable to the cross-border dimension of financial activities;
- ensuring comprehensive cover of the financial sector, while at the same time optimising the use of available supervisory resources by focusing on entities, sectors or jurisdictions deemed riskier;
- reinforcing the security and privacy of personal information.

Detailed knowledge of money laundering/terrorist financing risks throughout the EU will be needed to accurately map risks and to effectively direct supervisory efforts and resources.

Technological innovation will play an increasingly important role in the future, particularly in the case of banks and payment systems, where AML/CFT defence systems' use of technologies such as electronic signatures and seals, biometric data sensors and facial recognition can facilitate and strengthen onboarding processes.

Financial institutions' ability to rely on verified information – e.g., via up-to-date dependable central databases of beneficial ownership or bank account registers, or immutable records shared between obliged entities, should enhance AML/CFT compliance, while greater use of technologies such as artificial intelligence in transaction monitoring offer the potential to improve detection rates.

Technology also holds great potential from the perspective of supervisory authorities and financial intelligence units. RegTech solutions, such as those designed to improve regulatory reporting, could ensure better access to key information within supervised entities, while more powerful analytical tools relying e.g. on artificial intelligence, will allow more accurate and proactive analysis by financial intelligence units.

A more effective sanctions toolbox with more focus on deterrence should also be reflected on: clarity on sanctioning tools available, including tailor-made penalties, and when to use them.

In an ideal world, a zero failure AML/CFT regime should be the objective. However, a more realistic approach is to acknowledge that, irrespective of efforts, there will always be tail risks. The risk-based approach upon which the AML/CFT regime relies assumes that not all dirty money will be stopped, nor will every asset be detected, traced, and seized. But there is scope for improvement as regards prevention, timely detection and action, and the EU will need to adjust its AML/CFT framework to respond to these challenges. ●

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